



November 28, 2012

VIA ECF AND REGULAR MAIL

Hon. Michael A. Shipp, U.S.D.J.
U.S. District Court for the District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: *National Collegiate Athletic Association, et al. v. Christopher J. Christie, et al.*
Civil Action No. 12-cv-4947 (MAS)(LHG)

William J. O'Shaughnessy
Partner
T. 973.639.2094
F. 973.297.3722
woshaughnessy@mccarter.com

Dear Judge Shipp:

We hate to trouble the Court with another scheduling letter, but we must respond briefly to defendants' letter of earlier today.

In their letter, defendants tellingly have refused to rule out the possibility that they will seek permission to file a "surreply" to plaintiffs' reply brief on their summary judgment motion due December 5.

Moreover, defendants do not dispute that, regardless of what may have been mentioned in passing during the October 9 conference, the subsequent expedited scheduling order, which was negotiated as a result of the Court's rulings during the October 9 and 11 conferences, did not contemplate that defendants would be filing a cross-motion for summary judgment as part of the current expedited proceedings. In this regard, defendants have now filed, in addition to their Rule 56.1 Statement in opposition to our motion, a new and voluminous (32 page, 106 paragraph) Rule 56.1 Statement – in support of their own "cross-motion". Because it is in many respects factually inaccurate we will be required to prepare and file a detailed response, none of which was provided for in the expedited schedule. Nor do we believe that the Court's October 23 order directing oral argument on December 18th for the "pending motions" – which, at the time consisted only of plaintiffs' motion for summary judgment and defendants' motion to dismiss – contemplated a motion that had not yet been filed.

Accordingly, we renew our request that defendants' cross-motion for summary judgment be held in abeyance until resolution of the two pending motions that were contemplated by the Court's October 19 and October 23 orders. At a minimum, plaintiffs should be entitled to the two-week extension under the local rules to respond to defendants' cross-motion, so that the main motions would be heard on the 18th and defendants' cross motion would be returnable two weeks later, should it not be mooted by disposition of plaintiffs' motion for summary judgment and defendants' motion to dismiss.

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102-4056
T. 973.622.4444
F. 973.624.7070
www.mccarter.com

BOSTON

HARTFORD

NEW YORK

NEWARK

PHILADELPHIA

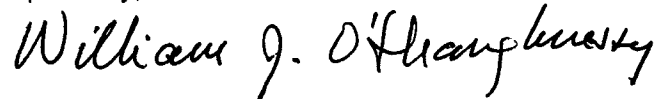
STAMFORD

WILMINGTON

Hon. Michael A. Shipp, U.S.D.J.
November 28, 2012
Page 2

If the Court believes a telephonic conference on this issue would be useful, we will make ourselves available whenever the Court wishes.

Respectfully,

A handwritten signature in black ink, reading "William J. O'Shaughnessy". The signature is written in a cursive, flowing style.

William J. O'Shaughnessy

cc: Hon. Lois H. Goodman, U.S.M.J. (via ECF)
All Parties of Record (via ECF)